

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

STACY G. HALL,

Plaintiff,

vs.

BUDDY MYOTTE, et al.,

Defendant.

CV 16–58–H–DLC

ORDER

Before the Court is Plaintiff Stacy G. Hall’s Second Motion for Trial Subpoena (Doc. 124) and Motion to Correct Plaintiff’s Second Motion for Trial Subpoena (Doc. 125). Hall previously moved for the Court to issue and serve a trial subpoena on Paul Price, a former Correctional Officer at the Montana State Prison, and the Court granted the motion. (*See* Docs. 122, 123.) Hall now informs the Court that Mr. Price is unable to serve as a witness in this case and requests that the Court issue and serve a subpoena on Melvin Paull, in lieu of Mr. Price. (Docs. 124 at 2, 125 at 2.) Hall reports that “Mr. Melvin served as a Correctional Officer at the Montana State Prison during all times relevant to this case, and directly witnessed the conditions Plaintiff was subjected to while employed as an inmate unit worker.” (Doc. 124 at 2.)

Per this Court’s scheduling order (Doc. 100), Hall must pay witness fees to all witnesses he intends to subpoena, except for prisoner-witnesses and witnesses

who are parties to the suit. *See* 28 U.S.C. § 1821(a), (d)(1), (f); *see also*, *Barth v. Bayou Candy Co., Inc.*, 379 F. Supp. 1201, 1205 (D.C. La. 1974) (citing *Picking v. Pa. R. Co.*, 11 F.R.D. 71 (M.D. Pa. 1951)); *Gillam v. A. Shyman, Inc.*, 31 F.R.D. 271 (D. Alaska, 1962).

Witness fees must be paid by check or money order made payable to the witness. The check or money order must be mailed separately to the Clerk of Court in Missoula, Montana. Each witness is entitled to \$40.00 plus mileage for the distance between his or her home or work address and the courthouse at a rate of \$0.655 per mile. *See* 28 U.S.C. § 1821(b), (c)(2), (f); *Tedder v. Odel*, 890 F.2d 210 (9th Cir. 1989). The Court will not order service of any subpoena unless the Clerk's Office receives the appropriate witness attendance fee.

Accordingly, IT IS ORDERED that the Second Motion for Trial Subpoena (Doc. 124) and the Motion to Correct Plaintiff's Second Motion for Trial Subpoena (Doc. 125) are GRANTED.

IT IS FURTHER ORDERED that, upon receipt of the appropriate witness attendance fees, the Clerk of Court shall issue the subpoena attached to Hall's motion (Doc. 125-1), for service by the U.S. Marshal Service, for Melvin Paull to appear on May 1, 2023, at 12:00 p.m. at the Russell Smith Federal Courthouse in Missoula, Montana.

DATED this 21st day of March, 2023.


Dana L. Christensen, District Judge
United States District Court